

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/726,737
Applicant : Igor K. Kotliar
Filing Date : 9 April 2003
Title : HYPOXIC AIRCRAFT FIRE PREVENTION AND SUPPRESSION SYSTEM
WITH AUTOMATIC EMERGENCY OXYGEN DELIVERY SYSTEM
Group Art Unit : 3752
Examiner : Steven J. Ganey [Phone: 571-272-4899]
Confirmation No. : 5831
Docket No. : IKK-19 (16964-2)
Customer No. : 34313

Via EFS-Web
Commissioner for Patents
10103
P.O. Box 1450
Alexandria, VA 22313-1450

January 28, 2009
New York, NY

INFORMATION DISCLOSURE STATEMENT
(Supplemental - 3rd)

Dear Commissioner:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449. In accordance with the USPTO waiver of the requirement under 37 CFR 1.98(a)(2)(i), only copies of foreign patent document(s) and non-patent literature are required.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35

USC § 102 with respect to this invention unless specifically designated by Applicant as such.

Information Disclosure Statement Filing Provision:

☐ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☒ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☒ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

STATEMENT UNDER 37 CFR § 1.97(e):

- ☐ Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- ☒ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS. The items disclosed became known to the Applicant on or about June 23, 2008 when Applicant received a copy of Defendant's Answer, Affirmative Defense and Counterclaims filed by The Boeing Company in response to a Complaint filed by Applicant's Assignee Firepass IP Holdings and Firepass Corporation in the United States District Court for the Eastern District of New York, Case No. CV-08-01766. The litigation concerns U.S. Patent Nos.: RE40,065, 6,334,315, 6,418,752, 6,314,754, and 7,203,392, and alleges that Boeing infringes claims of those patents. The asserted patents contain some disclosure related to the subject matter of this application, and share some common antecedent applications.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of is enclosed for the above fee(s).
- ☒ Please charge to Deposit Account No. 15-0665 the fee of \$180.00 for this filing.

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. 15-0665.

Respectfully submitted,
Orrick, Herrington & Sutcliffe LLP

Dated: January 28, 2009

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